



In re: application entitled **Laparoscopic Lifter Apparatus and Method**

Inventor: Gregory R. Pittman

Group Art No. 3731

Application Serial No. **10/075,948**

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Examiner: (Jackie) Tan-Uyen T. Ho

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To: Examiner ((Jackie) Tan-Uyen T. Ho

#### Comments

Claims Amended After Final Rejection: Final Rejection Mailed 09/24/2004

Under 37 CFR 1.114, amended claims for the above mentioned application are hereby submitted. Also, as we discussed by phone in early October, 2004, a request for continued examination is enclosed. In addition, a check for \$395.00 is enclosed.

Regarding examiner's rejection of claims 1-4 under 35 U.S.C 102(b) as being anticipated by Hasson (4,944,741), in addition to the comments filed on June 7, 2004 (enclosed is a copy) in response to examiner's first response, the following comments additionally explain the substantial structural differences between Hasson and the present invention as reflected in the newly amended claims.

In newly amended claim 1, the band like flexible arms that are mirror images of each other having specific length, width and depth requirements and end in blunt spheres have no counterpart in the Hasson invention. Hasson describes two piece jaws having arms, the jaws being selectively movable and the arms having elongated edges. In addition, the arms (28, 30) are each pivotally attached through a pin to the free end of a jaw to rotate about a single axis. The present invention has one piece band like arms that move in unison and have blunt ends. In Hasson, the arms (28, 30) rotate 90 degrees from their entry position unlike the present invention where in the present invention for both flexible arms a full 360 degree rotation is possible. The present invention is made of a

memory metal and can assume an infinite number of repeatable arcuate oval openings. In Hasson, the arms are associated with stems that move the arms, the arms closed or open or pivoted up and down. The present invention arms are one piece band like structures having blunt sphere ends that are fixed without pivoting qualities.

The structural differences noted above between the Hasson invention and the present invention are significant in that these differences allow the present invention to operate as an organ lifter and the Hasson invention to operate as a flexible tube or vessel holder. In Hasson, the jaws in association with the arms hold a flexible tube accomplished when jaws 16, 18 cooperate with arms 28, 30. The instability of a two part arm jaw holding component would not allow competent large organ lifting. In addition, the limited maneuverability of the Hasson invention arms (rotatable only 90 degrees from an entry position) would make it difficult to reach and properly surround an organ for lifting purposes. In addition, the blunt ends on the band like flexible arms of the present invention are necessary to smoothly touch and move under a delicate organ. The flat, rectangular configuration of the arms of the Hasson invention can harm a delicate organ as a user engages the organ and set the lifter under the organ for safe lifting. The substantial structural differences between the present invention and the Hasson invention as pointed out above are reflected in the newly amend claim 1.

Newly added dependent claims 5, 6, 7 and 8 further define band like flexible arm properties that distinguish the present invention from Hasson. The size of an opening between fully extended arms emphasizes the ability of the present invention to surround large organs for optimum lifting. Retraction of arms within the rigid tubular rod is further described to show unique features of the present invention.

Newly added claim 9 and dependent claims 10, 11, 12, 13, and 14 repeat the structural differences between the present invention and Hasson as explained above and then show that the present invention is an assembly of two components that are easily

separated for sterilization. The complex Hasson invention is a single component instrument which could present sterilization problems.

Claim 15 describes a method for lifting an organ where entire band like arms are manipulated through a 360 degree range to rest under and lift an organ. The band like flexible arms are extended slowly from the rigid tubular rod to form an ideal oval space. In the Hasson invention, springs control jaw and arm extension eliminating the chance for a slow extension and optimal jaw separation. The Hasson invention is for a limited purpose; to hold tubular organs such as a fallopian tube. Thus, in the Hasson invention, jaws surround an organ and flat rectangular arms have flat surfaces that engage each other and support the tubular vessel. The present invention has one piece arms designed to support the bottom surface of an organ such as a spleen and gently lift the organ. As a lifter and supporter, the Hasson invention would fail. The jaws present organ crushing problems and the engaged arms thin elongated edges provide no lifting support.

In light of the above comments and pertinent comments made responding to examiner's first response (see enclosed copy), it is respectfully requested that inventor's request for continuing examination be granted, that the newly submitted claims are accepted and that this application is passed to issue.

Sincerely,



Barbara R. Greenberg

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Docket No. 30,260